TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1921.

No. 142.

JAMES J. RAFFERTY, AS COLLECTOR OF INTERNAL REVENUE FOR THE PHILIPPINE ISLANDS, PETITIONER,

vs.

VISAYAN REFINING COMPANY.

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF THE PHILIPPINE ISLANDS.

PETITION FOR CERTIORARI FILED SEPTEMBER 18, 1920.

CERTIORARI AND RETURN FILED MARCH 9, 1921.

(27,910)

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1 THE UNITED STATES OF AMERICA,
Philippine Islands:

In the Supreme Court of the Philippine Islands.

(Appellate Jurisdiction.)

G. R. No. 13887.

VISAYAN REFINING COMPANY, Plaintiff and Appellant,

versus

JAMES J. RAFFERTY, as Collector of Internal Revenue for the Philippine Islands, Defendant and Appellant.

For Refund of Amount Paid for Taxes.

Be it remembered that, on the dates respectively mentioned, the following proceedings were had in the above-entitled case, to wit:

On January 20, 1917, the plaintiff by its attorneys filed with the office of the Clerk of the Court of First Instance of Manila, Ninth Judicial District, the following complaint:

2 UNITED STATES OF AMERICA,
Philippine Islands:

In the Court of First Instance of the City of Manila.

(Case No. 14749.)

VISAYAN REFINING COMPANY, Plaintiff,

versus

JAMES J. RAFFERTY, as Collector of Internal Revenue for the Philippine Islands, Defendant.

Plaintiff avers:

I.

Plaintiff is a foreign corporation organized and existing under the laws of the State of Delaware, United States of America, licensed to do business in the Philippine Islands.

II.

Plaintiff's principal place of business in the Philippine Islands is at Opon, in the Province of Cebú.

III.

3 Defendant is, and at all times herein mentioned has been, the duly appointed and qualified Collector of Internal Revenue for the Philippine Islands, and is a resident of the City of Manila, P. I.

IV.

Plaintiff's business in the Philippine Islands consists solely in the purchase of copra produced in the said Islands, the extraction of the oil content of such copra, and the exportation of the oil so obtained and of the by-products of the process of its extraction.

V.

In the month of November, 1916, plaintiff was the owner and was in the possession of a large quantity of cocoanut oil, to-wit, 2268.704 tons extracted by plaintiff from the Philippine copra purchased by it in the markets of the Philippine Islands.

VI.

Between the first day of November, 1916, and 31st day of December of said year, plaintiff exported the said 2268.704 tons of cocoanut oil from the port of Cebú, in the Philippine Islands, to the port of New York in the United States of America.

VII.

4 Said 2268.704 tons of cocoanut oil were, at the time of the shipment thereof, during the period of transportation, and upon the arrival thereof in the United States, the sole and exclusive property of plaintiff, and continued to be the property of plaintiff until sold to consumers within the United States of America.

VIII.

The value of the said 2268.704 tons of cocoanut oil was at the time of the shipment thereof the sum of One Million, One Hundred and Eighty-six Thousand, One Hundred and Seventy-one (₱1,186,171.00) Pesos, Philippine currency.

IX.

Defendant herein, acting in his official capacity as Collector of Internal Revenue for the Philippine Islands, made demand upon plaintiff for the payment of a tax of one per centum of the said value of the said 2268.704 tons of cocoanut oil, namely, the sum of Eleven Thousand Eight Hundred Sixty-one and 71/100 (₱11,861.71) Pesos, and threatened to enforce the payment of the said tax by administrative distraint of plaintiff's property.

X.

On the 9th day of January, 1917, plaintiff, to avoid the threatened distraint of its property, involuntarily and under written protest paid unto defendant the said sum of ₱11,861.71 demanded of it, and then and there notified defendant in writing that unless the said protested payment were refunded, suit would be brought for its recovery, with interest and costs.

XI.

Defendant overruled plaintiff's said protest and refused and still refuses to reund to plaintiff the said sum of ₱11,861.71 paid under protest, as aforesaid, or any part thereof.

Wherefore, plaintiff prays for judgment against defendant for the said sum of ₱11,861.71, together with interest thereon from the 9th day of January, 1917, and for the costs of suit.

Manila, P. I., January 20, 1917.

GILBERT, COHN & FISHER,
pp. F. C. FISHER,
Attorneys for Plaintiff.

On February 7, 1917, the Attorney General entered his appearance in the case as attorney for the defendant.

Thereafter, on February 12, 1917, the attorneys for both parties presented the following stipulation:

(Heading and Title Omitted.)

Now come attorneys for plaintiff and defendant in the above-entitled cause and stipulate and agree that defendant may have a period of 60 days from date hereof in which to answer or demur to plaintiff's complaint filed herein.

Manila, February 12, 1917.

RAMÓN AVANCEÑA,
Attorney-General,
For Defendant.
COHN & FISHER,
Attorneys for Plaintiff.

Thereafter, on April 18, 1917, the said Attorney-General, on behalf of the defendant, filed an answer to the complaint which reads as follows:

(Heading and Title Omitted.)

Answer.

Defendant, by the undersigned the Acting Attorney-General, in answer to plaintiff's complaint, alleges:

I.

That he admits the allegations contained in paragraphs I, II, III, V, X and XI of plaintiff's complaint.

II.

That he denies all and singular, the other allegations contained in the said complaint, with the exception of those which in his special defense are expressly admitted.

III.

That as a special defense defendant alleges the following:

7 (*a*) That in the month of November, 1916, plaintiff was the owner and was in possession of 2268.704 tons of cocoanut oil extracted by plaintiff from Philippine copra.

(*b*) That between the first day of November, 1916, and the 31st day of December of said year, plaintiff shipped the said 2268.704 tons of cocoanut oil from the port of Cebú in the Philippine Islands, consigned to its agents in the port of New York in the United States of America.

(*c*) That the value of said 2268.704 tons of cocoanut oil, as declared by plaintiff for taxation, was the sum of ₱1,186,171.00.

(*d*) That the defendant made demand upon plaintiff for the payment of an internal revenue tax of one per centum of the value of said cocoanut oil consigned abroad as aforesaid.

(*e*) That thereafter, to wit, on the 9th day of January, 1917, plaintiff paid to defendant, under protest, the sum of ₱11,861.71 demanded of plaintiff as aforesaid.

(*f*) That the said protest was denied by the defendant for the reason that the internal revenue tax so collected is legal.

Wherefore defendant asks the judgment of this Court that the plaintiff take nothing by its said complaint and for the costs of this action.

Manila, P. I., April 13, 1917.

QUINTÍN PAREDES,
Acting Attorney-General.

8 The case was set for hearing on July 12, 1917, and, on November 26, 1917, the Honorable James A. Ostrand, Judge of the Court of First Instance of Manila, Ninth Judicial District, entered judgment and decision in the case which reads as follows:

UNITED STATES OF AMERICA,
Philippine Islands:

In the Court of First Instance for the City of Manila.

(Case No. 14749.)

VISAYAN REFINING COMPANY, Plaintiff,

versus

JAMES J. RAFFERTY, as Collector of Internal Revenue for the Philippine Islands, Defendant.

Decision.

The above-entitled actions are brought to recover back internal revenue taxes paid on export consignments during the year 1916, under Section 2 of Act 2541, Section 3 of Act 2622, and Section 1614 of the Administrative Code of 1916. The plaintiffs argue that it could not have been the intention of the legislator in enacting the statutory provisions cited to impose taxes on export consignments, and that, if such was the intention, the provisions are unconstitutional.

9 There is no dispute as to the fact that all the taxes in question were levied on consignments abroad. From January 1st to February 3rd, 1916, they were levied and collected under Section 2 of Act 2541, of which the pertinent part reads as follows:

"* * * a tax of one per cent on the gross value in money of the commodities, goods, wares and merchandise sold, bartered or exchanged by them, such tax to be based on the actual selling price or value at which the things in question are disposed of * * *"

From February 4th to June 30th, 1916, the taxes were imposed under Section 3 of Act 2622 which reads in part:

"* * * a tax of one per cent on the gross value in money of the commodities, goods, wares and merchandise sold, bartered consigned, or exchanged by them, such tax to be based on the actual selling price or value at which the things in question are disposed of * * *"

On July 1, 1916, the Administrative Code of 1916 went into effect, and in which the following language is used:

"* * * a tax of one per cent on the gross value in money of the commodities, goods, wares, and merchandise sold, bartered, exchanged, or consigned abroad by them, such tax to be based
10 on the actual selling price or value at which the things in question are disposed of or consigned * * *"

Act Number 2622 was expressly ratified and confirmed by the Act of Congress of July 1, 1916, and, on August 29, 1916, Congress passed the so-called Jones Act, Section 11 of which provides that no export duties shall be levied or collected in the Philippine Islands.

As will be seen, from the standpoint of legislation bearing upon the tax in question, the year 1916 may be divided into four periods, viz: (1) From January 1st to February 3rd, when the tax was collected under section 2 of Act 2541; (2) from February 4th till June 30th, when section 3 of Act 2622, ratified by the Act of Congress of July 1, 1916, was in force; (3) from July 1st to August 28th, when the tax was imposed under the Administrative Code; and (4) from August 29th to December 31st, when the matter was governed by the same Code, as affected by the Act of Congress of August 29th.

(1) As to the first period there can be no doubt but that the tax on consignments was improperly collected. The terms "sold, bartered or exchanged" do not necessarily include consignments.

(2) The statute controlling during the second period expressly imposes the tax on consignment, but it applied to all consign-
11 ments alike and was not limited to export consignments. The tax could, therefore, not be considered an export tax; it was not "laid upon the commodities as exports, or because of their exportation or intended exportation, or upon persons who actually exported such commodities" (Muñoz & Co. vs. Hord, 12 Phil. Rep. at page 630). In the opinion of the Court it was clearly within the power of the Legislature to lay the tax provided for in Act 2622, and the terms of the statute itself are too clear to require construction. The tax being valid, the plaintiffs can not, of course, recover back the amounts paid under said Act.

(3) There can be no doubt that the language used in the Administrative Code converts the tax into an export tax pure and simple. It is laid on consignments abroad, namely, and does not include domestic consignments.

As to the power of the local Legislature to provide for such a tax, there may be some doubt. The plaintiffs argue that as the legislative powers delegated to the Philippine Government did not extend beyond the scope of the powers conferred upon the Philippine Commission by the President's Instructions of April 7, 1900 (see Section 1 of Act of Congress of July 1, 1902), and that as it has been repeatedly held by the Supreme Court of the United States that
12 the President, at the time of the issuance of the instructions, had no power to authorize the commission to enact tariff laws, neither the Philippine Commission nor the Philippine Legislature have ever possessed such authority.

It may be observed, however, that while the United States Supreme Court, in a series of cases following the Fourteen Diamond Rings Case, 183 U. S. 176, held that the presidential power to levy duties on goods brought from the United States to the Philippine Islands ceased upon the exchange of ratifications of the Treaty of Peace with Spain, April 11, 1899, it has never held that the President did not

have power to authorize any sort of tariff legislation after that date. The decision in the Fourteen Diamond Rings Case is based on the theory that the Philippine Islands ceased to be foreign territory after the ratification of the Treaty of peace, and that the President, as commander in chief of our military forces, could not impose duties on imports from the United States to one of its own territories. The same reasoning would not apply to imports from foreign countries, and may not necessarily be applicable to taxes on exports to any country.

Taking into consideration the rule that statutes should not
13 be held unconstitutional in merely doubtful cases, the undersigned is of the opinion that, until the enactment of the Jones Act, the clause of the Administrative Code, imposing a tax on consignments abroad, was constitutional and valid.

(4) Act of Congress of August 29, 1916 (the Jones Act), prohibits the levy and collection of taxes on export from the Philippine Islands. The tax on consignments provided for in the Administrative Code, being as above stated an export tax, falls within the prohibition.

Wherefore, it is hereby ordered and adjudged that the defendant the Collector of Internal Revenue for the Philippine Islands return to the plaintiffs the amounts paid by them, respectively, as taxes on consignments imposed during the periods from January 1, 1916, till February 3, 1916, inclusive, and from August 29, 1916, till December 31, 1916, inclusive, and the return of which is demanded in the present action. No costs will be allowed.

Manila, P. I., November 26, 1917.

JAMES A. OSTRAND,
Judge.

On December 3, 1917, the counsel for the plaintiff presented an exception to the decision and motion for rehearing reading as follows:

14 (Heading and Title Omitted.)

Now comes the plaintiff in the above-entitled cause and respectfully excepts to the decision of this Court, dated the 26th day of November, 1917, to so much of said decision and judgment as declares legal and valid the taxes levied and collected upon merchandise exported by the plaintiff from the Philippine Islands during the prevalence of Act No. 2622 and Act No. 2657, and to so much thereof as denies to plaintiff the right to recover interest and costs of suit, and moves this Honorable Court to set aside the judgment rendered herein and grant a new trial of said action for the following reasons:

1. The evidence presented is insufficient to justify the decision.

2. That the decision is contrary to the law.

Manila, P. I., December 1 ,1917.

CHARLES C. COHN,
Attorney for Plaintiff.

On December 7, 1917, the Acting Attorney-General, on behalf of the defendant, filed also the following exception to the decision and motion for rehearing:

(Heading and Title Omitted.)

Now comes the defendant in the above-entitled cause and respectfully excepts to the decision of this Court, dated the 26th day
15 of November, 1917, to so much of said decision and judgment as declares that the amounts paid by the plaintiff as taxes on consignments imposed during the periods from January 1, 1916, till February 3, 1916, and from August 29, 1916, till December 31, 1916, inclusive, have been illegally collected, and to so much thereof as orders the return of said amounts to the plaintiff; and moves this Honorable Court to set aside the judgment rendered herein and grant a new trial of said action for the following reasons:

1. The evidence presented is insufficient to justify the decision.

2. That the decision is contrary to the law.

Manila, P. I., December 6, 1917.

QUINTÍN PAREDES,
Acting Attorney-General,
For the Defendant.

Thereafter, on December 22, 1917, the foregoing motions for rehearing filed by both parties were denied by the trial court; to the order denying the said motions for rehearing the plaintiff and the defendant excepted forthwith and gave notice of their intention to prepare and file a bill of exceptions, as follows:

(Heading and Title Omitted.)

Now comes the plaintiff in the above-entitled action and ex-
16 cepts to the order of this Court dated December 22nd, 1917, denying the motion for new trial filed by the plaintiff, and does hereby give notice of its intention to prosecute a bill of exceptions for a review by the Supreme Court.

Manila, P. I., December 27, 1917.

CHARLES C. COHN,
Attorney for Plaintiff.

(Heading and Title Omitted.)

Now comes the defendant in the above-entitled action and excepts to the order of this Court dated December 22nd, 1917, denying the motion for new trial filed by the defendant, and does hereby give notice of his intention to prosecute a bill of exceptions for a review by the Supreme Court.

Manila, January 4, 1918.

QUINTÍN PAREDES,
Solicitor-General,
For the Defendant.

Thereafter, on January 17, 1918, the counsel for both parties presented a stipulation in which they agreed, subject to the approval of the trial court, that the bill of exceptions heretofore to be filed by the plaintiff may likewise be considered as filed by the defendant.

On the same date, to wit, January 17, 1918, and within the time limited by law, both plaintiff and defendant by their respect-
17 ive attorneys filed with the Court of First Instance the bill of exceptions requesting that the same be approved and certified, and forwarded thereafter to the Clerk of the Supreme Court of the Philippine Islands, together with all evidence given at the hearing of the case, which said evidence is thereby incorporated by reference into said bill of exceptions, so that the error complained of may be considered by the Supreme Court.

On January 30, 1918, the Court of First Instance approved, signed, and certified the said bill of exceptions, and the same, on March 23, 1918, was transmitted to the Office of the Clerk of the Supreme Court of the Philippine Islands, together with the record of the case, for the purposes of the appeal.

On March 27, 1918, the case was duly docketed, on appeal, bearing No. 13887 of the General Register of the Supreme Court.

Thereafter, on April 6, 1918, the bill of exceptions was printed and filed.

On April 15, 1918, counsel for both parties filed a stipulation which was approved by the Supreme Court in its session of April 16, 1918. Said stipulation reads as follows:

18 UNITED STATES OF AMERICA,
Philippine Islands:

In the Supreme Court of the Philippine Islands.

(G. R. No. 13887.)

VISAYAN REFINING COMPANY, Plaintiff and Appellant,

versus

JAMES J. RAFFERTY, Collector of Internal Revenue for the Philippine Islands, Defendant and Appellant.

(G. R. No. 13888.)

G. MARTINI, LIMITED, Plaintiff and Appellant,

versus

JAMES J. RAFFERTY, Collector of Internal Revenue for the Philippine Islands, Defendant and Appellant.

Stipulation.

Whereas the appeals of both plaintiff and defendant in the above-entitled actions involve no issues of fact, and are based upon questions

of law which are identical in each case with the issues presente
19 and discussed in the case wherein Compañía General d
Tabacos de Filipinas is plaintiff and appellant and James J
Rafferty, as Collector of Internal Revenue, is defendant and appel
lant, being Cause R. G. No. 13889 in this Honorable Court; and

Whereas the briefs on appeal in the above-entitled causes, if pre
sented and filed, would be mere replicas of the briefs in the said Caus
No. 13889.

Now, therefore, by and with the express approval and consent o
this Honorable Court which is hereby solicited and prayed for the re
spective parties hereto do stipulate and agree that the above-entitle
causes may be submitted for decision and determination in this Hon
orable Court upon the briefs to be filed in said Cause No. 13889 an
in accordance with the decision to be rendered in said last mentione
cause.

Manila, April 15, 1918.

CHARLES C. COHN,
Attorney for Plaintiff and Appellant.
QUINTÍN PAREDES,
Attorney for Defendant and Appellant.

On November 13, 1918, the case was finally submitted to the Su
preme Court, for decision on the merits.

Thereafter, on February 21, 1920, the Supreme Court of
20 the Philippine Islands rendered its decision in the case, which
said decision is in the words and figures following, to wit:

THE UNITED STATES OF AMERICA,
Philippine Islands:

In the Supreme Court of the Philippine Islands.

In Banc.

G. R. No. 13887.

Submitted November 13, 1918; Promulgated February 21, 1920.

Justices Present: The Chief Justice, Cayetano S. Arellano, and
Messrs. Florentino Torres, E. Finley Johnson, Manuel Araullo,
Thos. A. Street, Geo. A. Malcolm, and Ramón Avanceña.

VISAYAN REFINING COMPANY, Plaintiff and Appellant,

versus

JAMES J. RAFFERTY, as Collector of Internal Revenue for the Philippine Islands, Defendant and Appellant.

Decision.

JOHNSON, *J.:*

This action was commenced in the Court of First Instance of the City of Manila on the 29th day of January, 1917. Its pur-
21 pose was to recover the sum of ₱11,861.71 which the plaintiff paid to the defendant under protest. The plaintiff alleges that the same was an export tax collected on certain merchandise, the growth and product of the Philippine Islands, exported from the Philippine Islands to various persons and firms without the Philippine Islands, for the following period: between the first day of November, 1916, and the 31st day of December, 1916.

There is no dispute about the facts. They are admitted. After hearing the respective parties the Hon. James A. Ostrand in a carefully prepared opinion, rendered a judgment in favor of the plaintiff and against the defendant for the sum of ₱11,861.71 with interest from the 9th day of January, 1917, without costs. From that judgment both the plaintiff and the defendant appealed.

The said taxes were collected under and by virtue of the provisions of Section 1469 of Act No. 2657, which took effect upon the first day of July, 1916. On the 29th day of August, 1916, the Congress of the United States adopted the Jones Law, Section 11 of which prohibited the collection of the export tax upon the exportation of products of the Philippine Islands. (Section 11 of the Act of Congress of August 29, 1916, Vol. 12, Public Laws, p. 237.) The prohibition contained in the Jones Law in force and effect during the
22 period for which taxes in question were collected. Said taxes being prohibited by the Jones Law, their collection was illegal, and should be returned to the plaintiff. (Macleod & Co. Inc. vs. Collector of Internal Revenue, R. G. No. 7444; Smith, Bell & Co., Ltd. vs. Rafferty, R. G. No. 14466; Compañía General de Tabacos de Filipinas vs. Rafferty, R. G. No. 13889; Crew Levick Co. vs. Pennsylvania, 245 U. S., 292; 256 Pa. St. 508.)

Therefore, and for the foregoing reasons, the judgment of the lower court is hereby affirmed, and it is hereby ordered and decreed that a judgment be entered in favor of the plaintiff and against the defendant for the sum of ₱11,861.71, with interest at the legal rate from the 9th day of January, 1917; without any finding as to costs.

Ten days after notification of decision let judgment be entered in conformity herewith, and, five days thereafter, let the record be returned to the court of origin for proper proceedings.

It is so ordered.

Arellano, Ch. J., and Torres, Araullo, Street, and Malcolm, JJ., concur.

On February 24, 1920, the parties were duly notified of the fo
going decision, and, on March 2 of the same year, the Att
23 ney-General, on behalf of the defendant and appellant, fil
the following motion for rehearing:

(Heading and Title Omitted.)

Motion for Rehearing.

Now comes the Attorney-General, on behalf of the defendant-a
pellant, and moves for a rehearing in the above-entitled case and f
a reconsideration of the decision therein rendered by this Court f
the following reasons:

1. The said decision is contrary to law.

2. The Court erred in finding that the taxes collected on goods co
signed abroad by plaintiff during the period from November 1,
December 31, 1916, are illegal, and in not finding that said tax
have been ratified and validated by the Act of Congress of June
1918.

3. The Court erred in adjudging interest to the plaintiff.

In support of this motion, we here reiterate the arguments
identical points contained in our motion for reconsideration in t
case of Smith, Bell & Co., Ltd. vs. James J. Rafferty, etc., R. G. N
14466, to which the attention of the Court, is respectfully invited.

Manila, March 1, 1920.

QUINTIN PAREDES,
Attorney-General.

24 On March 11, 1920, the Supreme Court, upon consideri
the foregoing motion for rehearing passed a resolution den
ing the same.

Thereafter, on March 18, 1920, the Clerk of the Supreme Court
the Philippine Islands entered the final judgment in the case whi
reads as follows:

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THE UNITED STATES OF AMERICA:

Supreme Court of the Philippine Islands.

March 18, 1920.

G. R. No. 13887.

VISAYAN REFINING COMPANY, Plaintiff and Appellant,

versus

JAMES J. RAFFERTY, Collector of Internal Revenue for the Philippine Islands, Defendant and Appellant.

Judgment.

The Court having regularly acquired jurisdiction for the trial of the above-entitled cause submitted by both parties for decision, after consideration thereof by the Court upon the record, its decision and order for judgment having been filed on the twenty-first day of February, A. D. nineteen hundred and twenty;

25 By virtue thereof it is hereby adjudged and decreed that the judgment of the Court of First Instance of Manila, dated the twenty-sixth day of November, nineteen hundred and seventeen, and from which the above-entitled appeal was taken, be, and the same is hereby, affirmed, and it is hereby ordered and decreed that a judgment be entered in favor of the plaintiff and against the defendant for the sum of ₱11,861.71, with interest at the legal rate from the 9th day of January, 1917, without any finding as to costs.

[SEAL.] V. ALBERT,
Clerk of the Supreme Court of the Philippine Islands.

Certified correct:

[Seal of the Supreme Court of the Philippine Islands.]

V. ALBERT,
Clerk of the Supreme Court of the Philippine Islands.

On March 24, 1920, the record of the case was returned to the Court of First Instance, as well as the original bill of exceptions, together with certified copies of the decision and judgment rendered by the Supreme Court therein, for proper proceedings.

Thereafter on March 31, 1920, the Attorney-General, on behalf of the defendant and appellant, filed the following petition:

26 (Heading and Title Omitted.)

Comes now the Attorney-General on behalf of the defendant and appellant and excepts to the decision of this court in denying his

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motion for a rehearing in the above-entitled action, and also exc
to the final judgment entered herein.

Notice is hereby given that the defendant intends to petition
Supreme Court of the United States for a writ of certiorari for th
view of the decision and judgment of this court, and said defen
hereby makes application for the retention of the record in said
in this court pending the preparation, printing and certificatio
said record and the presentation of said petition to the Supr
Court of the United States. The said defendant also prays for a
of the judgment of this court during the pendency of the ap
cation for the writ of certiorari and of the proceedings in the
preme Court of the United States.

Manila, March 16, 1920.

QUINTIN PAREDES,
Attorney General,
Attorney for Defendant and Appellan

And finally, on the same date, to wit, March 31, 1920, the
preme Court, upon considering the above petition filed by
27 Attorney-General, on behalf of the defendant and appell
passed a resolution ordering that the record of the case, wh
has been remanded to the Court of First Instance since the 24th
stant, be again required to be transmitted to the said Supreme Co
and that the execution of the judgment be stayed for a period of
months.

28 THE UNITED STATES OF AMERICA,
Philippine Islands:

In the Supreme Court of the Philippine Islands.

I, V. Albert, Clerk of the Supreme Court of the Philippine Isla
do hereby certify that the foregoing twenty-seven (27) printed p
contain a true and correct translation and transcript of the recor
the case entitled Visayan Refining Company, Plaintiff and Ap
lant, versus James J. Rafferty, .s Collector of Internal Revenue
the Philippine Islands, Defendant and Appellant, for refund
amount paid for taxes, bearing No. 13887 of the docket of this
preme Court.

In witness whereof, I have hereunto set my hand and affi
the seal of the Supreme Court of the Philippine Islands this 2
day of July, A. D. nineteen hundred and twenty.

[Seal of the Supreme Court of the Philippine Islands.]

[SEAL.] V. ALBERT,
Clerk of the Supreme Court of the
Philippine Islands

COPY BOUND CLO

29 UNITED STATES OF AMERICA:

In the Supreme Court of the Philippine Islands.

I, V. Albert, Clerk of the Supreme Court of the Philippine Islands, in obedience to the writ of certiorari issued by the Supreme Court of United States, dated the 18th day of November, 1920, in Cause No. 553 entitled James J. Rafferty, as Collector of Internal Revenue for the Philippine Islands, vs. Visayan Refining Company, do hereby make return thereof to said Court, in accordance with the terms of the stipulation filed in said cause by the attorneys of record of the respective parties, the original of which stipulation is hereto attached, this eighteenth day of January in the year of our Lord one thousand nine hundred and twenty-one.

[Seal of the Supreme Court of the Philippine Islands.]

V. ALBERT,
Clerk of the Supreme Court of the Philippine Islands.

30 In the Supreme Court of the United States.

No. 553, October Term, 1920.

VISAYAN REFINING COMPANY, Plaintiff and Appellant,

v.

JAMES J. RAFFERTY, as Collector of Internal Revenue for the Philippine Islands, Defendant and Appellant.

Stipulation that Return May Consist of Copy of Record on File.

It is hereby stipulated that the certified copy of the record of this case on application by defendant above named for writ of certiorari, certified July 26, 1920, by the Clerk of the Supreme Court of the Philippine Islands (the case being No. 13,887 in that court), which has been filed in the office of the Clerk of the Supreme Court of the United States, may be taken and deemed the return required by the writ of certiorari granted in the cause by the Supreme Court of the United States under date of November 18, 1920.

Dated Washington, D. C.,
November 22, 1920.

CLARENCE B. MILLER,
Attorney for Plaintiff-Appellee.
CHARLES MARVIN,
Attorney for Defendant-Appellant.

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31 In the Supreme Court of the United States.

No. 553, October Term, 1920.

VISAYAN REFINING COMPANY, Plaintiff and Appellant,

v.

JAMES J. RAFFERTY, as Collector of Internal Revenue for the Philippine Islands, Defendant and Appellant.

Stipulation that Return May Consist of Copy of Record on File.

It is hereby stipulated that the certified copy of the record of this case on application by defendant above named for writ of certiorari, certified July 26, 1920, by the Clerk of the Supreme Court of the Philippine Islands (the case being No. 13,887 in that court), which has been filed in the office of the Clerk of the Supreme Court of the United States, may be taken and deemed the return required by the writ of certiorari granted in the cause by the Supreme Court of the United States under date of November 18, 1920.

Dated Washington, D. C.,
November 22, 1920.

CLARENCE B. MILLER,
Attorney for Plaintiff-Appellee.
CHARLES MARVIN,
Attorney for Defendant-Appellant.

32 UNITED STATES OF AMERICA, *ss.*:

[Seal of the Supreme Court of the United States.]

The President of the United States of America to the Honorable the Judges of the Supreme Court of the Philippine Islands, Greeting:

Being informed that there is now pending before you a suit in which Visayan Refining Company is plaintiff and appellant, and James J. Rafferty, as Collector of Internal Revenue for the Philippine Islands, is defendant and appellant, which suit was removed into the said Supreme Court by virtue of appeals from the Court of First Instance of Manila, Ninth Judicial District, and we, being willing for certain reasons that the said cause and the record and proceedings therein should be certified by the said Supreme Court and removed into the Supreme Court of the United States.

33 Do hereby command you that you send without delay to the said Supreme Court, as aforesaid, the record and proceedings in said cause, so that the said Supreme Court may act thereon as of right and according to law ought to be done.

Witness the Honorable Edward D. White, Chief Justice of the United States, the eighteenth day of November, in the year of our Lord one thousand nine hundred and twenty.

JAMES D. MAHER,
Clerk of the Supreme Court of the United States.

34 [Endorsed:] File No. 27,910. Supreme Court of the United States, No. 553, October Term, 1920. James J. Rafferty, as Collector of Internal Revenue for the Philippine Islands, vs. Visayan Refining Company. Writ of Certiorari. Insular Bureau. War Department. Nov. 30, 1920. 27262—75-G.

35 [Endorsed:] File No. 27,910. Supreme Court U. S. October Term, 1920. Term No. 553. James J. Rafferty, as Collector, etc., Petitioner, vs. Visayan Refining Company. Writ of certiorari and return. Filed March 9, 1921.

(4101)